IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.214 OF 2001
WITH
CIVIL APPLICATION NO.57 OF 2005

Dr.Ganpat R. Nimbalkar. ..Petitioner.

V/s.

Staste of Maharashtra & Ors. ..Respondents.

Dr.Vinayak K.Choudhari for petitioner.

Smt.S.S.Bhende, AGP for Respondent No.1,5 and 6.

Mrs. Minakshi G. Kulkarni for respondent No.4.

Mr. A.M.Kulkarni for A.A.Kumbhakoni for respondent No.2 and 3.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 14, 2006.

P.C. :

1. Heard counsel for the parties. Perused the relevant documents on record.

2. The grievance in this petition is that the direction given by this court to the first respondent to fix pension of the petitioner in the light of observations made in decision dated 27th April, 2000 in Writ petition No.1956 of 2000 has not been complied. It is the case of the petitioner that it is wilful disobedience committed by the first respondent. It is however, accepted that the first

respondent issued Government Resolution on 20th July, 2000 to comply with the order passed by this court on 27th July, 2000. That Government Resolution purports to fix the pension of the petitioner. Indeed, the same has not been issued within 8 weeks, as was required. But that does not mean that that it is a case of willful disobedience. The grievance of the petitioner that the determination of the pension of the petitioner under the said Government Resolution is not in confirmity with the observations made by this Court in the order dated 27th April, 2000. According to the petitioner, there is error in the approach of the first respondent by fixing the pension of the petitioner. Such grievance will not give rise to action for having committed civil contempt. I have already found that it is not possible to accept the allegation of the petitioner that first respondent has wilfully committed such delay. If it is not a case of wilful disobedience of the order of the court, question of invoking contempt jurisdiction does not arise. This is more so because it is common ground that the petitioner has filed Civil Application No.57 of 2005 in the present contempt petition for the following relief:

> A. This Hon'ble Court by virtue of appropriate orders be pleased to direct the

> authorities concerned to calculate the pension correctly and pay the arrears thereof to the Applicant forthwith.
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> B. Any other appropriate orders as this Hon'ble Court may deem fit in the interest of justice and equity may kindly be passed.

Such relief can be prayed by taking recourse to appropriate remedy as may be advised. If the petitioner takes recourse to such remedy by way of substantive proceedings, those aspects will be considered on its own merits, in accordance with the law.

3. Suffice it to observe that it is not a case for initiating contempt action against the respondents. Hence this petition is dismissed with liberty to the petitioner to agitate the grievance regarding improper fixation of his pension by way of appropriate remedy as may be advised. Accordingly, contempt petition and civil application is disposed of on the above terms. Notice issued to the respondents stands discharged.